

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-050966

02/26/2010

JUDGE PRO TEM STEPHEN KUPISZEWSKI

CLERK OF THE COURT
R. Tomlinson
Deputy

HELVETICA SERVICING INC, et al.

DONNELLY A DYBUS

v.

KELLY R PASQUAN, et al.

KELLY R PASQUAN
10601 N MONTROSE WAY
SCOTTSDALE AZ 85254

DANIEL L KLOBERDANZ

MINUTE ENTRY

This matter having been under advisement, the Court has had the opportunity to review the exhibits, pleadings and supplemental appraisal report allowed pursuant to this Court's order, and rules as follows:

The Court values the home at \$2,266,666.67. In arriving at this number, the Court believes that Mr. Jay Delich incorrectly identified the date of valuation and incorrectly relied on distress sale homes in forming his opinion. No increase in his valuation was reflected in his original or supplemental valuation due to the distress nature of the comparables. This oversight does not entirely invalidate his appraisal or his supplement. Likewise, Mr. Pasquan's opinion as to valuation is lay testimony and ultimately non persuasive to the Court's determination. Mr. Pasquan relied on all sales over a period of time averaging value per square foot of the homes sold in the neighborhood. Given the differences in lot size, view and neighborhood location, this simplistic approach is only wishful thinking.

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The Court blends the two approaches and uses Mr. Delich's six (6) comparables and identifies that the value of the subject property in a distress sale posture is \$1,700,000.00. The Court divides this figure by 75% reflecting the only testimony provided by Mr. Pasquan suggesting that distress sale reduces the price 25%-50% bringing the total to \$2,266,666.67. 50% being wishful thinking by Mr. Pasquan, the Court adopted the lowest percentage of 25%.

No adjustment was provided for using the incorrect date of valuation as no numbers were presented and the Court is not going to speculate as to what is appropriate.

The Court felt forced to adopt this highbred approach for its calculations due to both parties overstating their positions leaving the Court with no clear guidance.

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